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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,203	05/22/2006	Johan K. Fremerey	26202.460	9283

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BERENATO, WHITE & STAVISH, LLC
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BETHESDA, MD 20817

EXAMINER

MUSLEH, MOHAMAD A

ART UNIT	PAPER NUMBER
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2832

MAIL DATE	DELIVERY MODE
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05/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,203

Applicant(s)

FREMEREY, JOHAN K.

Examiner

MOHAMAD A. MUSLEH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/02/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **04/02/2009** has been entered.

Claim Objections

2. **Claims 6 and 12** are objected to because of the following informalities: it is not clear what "...fo..." in **claims 6 and 12** means. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country, in public use, or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1/3-13** are rejected under **35 U.S.C. 102(b)** as being anticipated by **Pinkerton US 5,302,874 A [Pinkerton]**.

4. Regarding **claim 1**, at **[figs. 1-8] Pinkerton** teaches an annular permanent magnet **[38/40]** divided in a circumferential direction thereof at at least one location to form a radially extending slit **[between segments of elements 38 and 40]**, the radially extending slit defined by opposing faces of the magnet **[38/40]**, and an annular binding

band **[12]** surrounding and exerting a preloading force on the annular permanent magnet **[38/40]**, wherein the opposing faces of the magnet are not in contact with each other **[fig. 7]**.

5. Regarding **claim 8**, at **[figs. 1-8]** **Pinkerton** teaches a hub **[16]**; an annular magnet **[38/40]** mounted on the hub **[16]** and divided in a circumferential direction in at least one location to form a radially extending slit **[between segments of elements 38 and 40]** defined by opposing faces of the magnet **[38/40]**; and an annular binding band **[12]** surrounding the annular magnet **[38/40]** and exerting an inwardly directed radial force thereon for preloading the annular magnet **[38/40]**, wherein the opposing faces of the annular magnet **[38/40]** are not in contact with each other **[fig. 7]**.

6. Regarding **claims 3/9**, wherein the permanent magnet **[38/40]** is divided in a circumferential direction thereof at multiple locations **[fig. 7]** to form multiple radially extend slits **[between segments of elements 38 and 40]** and a plurality of spaced apart segments **[N/S]** and the plurality of the spaced apart segments **[N/S]** are not in contact with adjacent segments **[segments N/S are spaced apart]**.

7. Regarding **claims 4/10**, wherein the locations are distributed regularly around a periphery of the permanent magnet **[38/40]**.

8. Regarding **claims 5/11**, wherein the bearing element comprises multiple permanent magnets **[38/40]** arranged concentrically with one another, all of which are divided at least one location **[fig. 7]** and spaced apart there.

9. Regarding **claims 6/12**, wherein the radially extending slit **[between segments of elements 38 and 40]** of one of the multiple permanent magnets **[38/40]** is **offset**

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[offset could mean an agent, element, or thing that balances, counteracts, or compensates for something else] from the radially extending slit of another one of the multiple permanent magnets **[38/40]** in the circumferential direction **[fig. 7]**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 7/13** are rejected under **35 U.S.C. 103(a)** as being unpatentable over **Pinkerton** as applied to **claim 1** above, in view of **Koenig US 6,250,577 B1 [Koenig]**.
11. Regarding **Claim 7**, **Pinkerton** discloses the claimed invention except for that the annular binding band is made from a carbon-fiber material. **Koenig** teaches that it is known to use the carbon-fiber material as an insert or as binding band as set forth at **[c. 2, l. 30-37 and c. 3, l. 6-12]**. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify **Pinkerton's** bearing composed of a carbon-fiber material insert or binding as taught by **Koenig** since carbon-fiber materials are known to be used as bearing surface as disclosed in the **[abstract]**. Moreover, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

12. Applicant's arguments filed **04/02/2009** have been fully considered but they are not persuasive.

a. In response to applicant's argument that the **housing 12** is not in contact with an annular magnet as recited in **claim 1** and therefore can not exert a force on the magnets, first this feature is not even claimed in claims 1 and 8, claims 1 and 8 does not disclose that the annular binding band directly or indirectly in contact with the annular magnet. Second a recitation of the intended use of the claimed invention must result in **a structural difference** between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MOHAMAD A. MUSLEH** whose telephone number is (571)272-9086. The examiner can normally be reached on M-F (8:30-5:00 Est. Time) 1st Friday Off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Elvin G. Enad** can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000.**

**/Mohamad A Musleh/
Examiner, Art Unit 2832**

**/Elvin G Enad/
Supervisory Patent
Examiner, Art Unit 2832**